IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JAIPUR BENCH, JAIPUR

**ORDER**

D.B. Civil Special Appeal (Writ) No.529/2004

Devendra Kumar Indra, aged about 29 years, Son of Shri Ram Narain Singh Indra, resident of F-33, III-B, Khetri Nagar, District Jhunjhunu.

.....Appellant

Versus

1. The State of Rajasthan through the Secretary to Government, Transport Department, Rajasthan, Jaipur.
2. Rajasthan Public Service Commission, Ajmer through its Secretary.

.....Respondents

Date of Order :: 31st October, 2007

**HON'BLE MR. JUSTICE R.M. LODHA**
**HON'BLE MR. JUSTICE R.S. CHAUHAN**

Mr. Sanjeev Prakash Sharma for the appellant
Mr. S.N. Kumawat for the respondent no.2

**ORAL ORDER (PER R.M.LODHA,J.)**

The Rajasthan Transport Subordinate Service Rules, 1963 (for short, “the Rules”) provide for the post of Motor Vehicle Sub Inspector to be, inter-alia, filled up 75% by direct recruitment. The qualification for direct recruitment provided in the Rules is thus:

"(i) Must have passed Secondary Examination of a recognised Board; and

(ii) A Diploma in Automobile Engineering (3 years' course) or a diploma in Mechanical Engineering awarded by the State Board of Technical Education (3 years' course)

Or

Any qualification in either of the above disciplines declared equivalent by the Central Government or State Government; and

(iii) Working experience of atleast one year in a reputed Automobile Workshop which undertakes repairs of both light motor vehicles, heavy goods vehicles and heavy passenger motor vehicles fitted with petrol and diesel engines; and

(iv) Must hold a driving license authorising him to drive Motor Cycle, heavy goods vehicles and heavy passenger vehicles. Nothing contained in this Notification shall apply to persons whose names were under consideration for appointment to the post of Inspector of Motor Vehicles or Assistant Inspector of Motor Vehicles (by whatever names called by the State Government prior to first day of July, 1989) or to an officer appointed to such post before the first day of July, 1989 or to an officer appointed to discharge functions of a non-technical nature."

2. Vide advertisement published on 15th October, 2001, the Rajasthan Public Service Commission (for short, "RPSC") invited applications for the post of Motor Vehicle Sub Inspector. It provided for the eligibility, as noticed above, as on 19th November, 2001.

3. The appellant (here-in-after to be referred, “the petitioner”) made an application for the said post. It is an admitted position that he has not done any diploma in automobile engineering (3 years' course) or diploma in mechanical engineering (3 years' course) awarded by the State Board of Technical Education. According to him, he did Technician Engineers' Examination (T) Part-I and Part-II conducted by the Institution of Mechanical Engineers (India), Mumbai which was equivalent to the 3 years' diploma course conducted by State Board of Technical Education. The petitioner appeared in the written examination held on 10th & 11th March, 2002 and was declared successful. He was called for interview and at that stage the communication dated 21st June, 2002 was sent to him informing that he did not possess diploma in Mechanical Engineering or Automobile Engineering as per the eligibility prescribed and also that he did not possess the heavy goods/passenger license. The petitioner made the representation and clarified that he was in possession of the driving license as required in the Rules and also stated in his representation that the Technician Engineers

Examination (T) Part-I and Part-II done by him is equivalent to the diploma in Mechanical Engineering. Based on the representation, he was permitted to appear before the Interview Board. However, the petitioner's appearance in the examination was cancelled since he was found to be not eligible. This order issued by RPSC on 9th December, 2002 was challenged by the petitioner by filing the writ petition praying for the following reliefs:

> “i) The Hon'ble court may kindly be pleased to call for the entire record and after examining the same be pleased to quash and set aside the order dated 9.12.2002 and also the government order dated 30.10.2000 which has been taken to be a basis for holding the petitioner ineligible and the petitioner be declared to be eligible for the post of Motor Vehicle Sub Inspector as per Scheme of Rajasthan Transport Subordinate Service Rules, 1963 and he may be made entitle for all consequential benefits.
>
> ii) by further appropriate writ, order or direction the respondents be directed to declare the result of the petitioner and if he is qualified, his name be recommended to the State Government for appointment to the post of Motor Vehicle Sub Inspector as per his order of merit prepared in pursuance to the advertisement dated 1.10.2001 and he may be appointed with all consequential benefits maintaining his seniority in the cadre as per his placement in the order of merit.

iii) Any prejudicial order, if any, passed by the State Government during the pendancy of the writ petition, the same may kindly be taken on record and be quashed and set aside.

iv) Any other order or direction which the Hon'ble High Court deems fit and proper in the facts and circumstances of the case may kindly be granted."

4. The Single Judge dismissed the writ petition alongwith few other writ petitions by his order dated June 30, 2004. It is this order which is impugned in the present appeal.

5. It is true that by the Notification dated 6th August, 1991, the Government of Rajasthan recognised the Part-I and Part-II Technician Engineers' Examination (T) conducted by the Institution of Mechanical Engineers (India) at par with Diploma in Mechanical Engineering from a State Polytechnic for the purpose of employment to sub-ordinate posts and services under the State Government. But it is also a fact that by the subsequent order dated 30th October, 2000, the State Government derecognised the Technician Engineers Examination (T) conducted by the Institution of Mechanical Engineers (India) and, consequently, by that very order, the equivalence of the above course with Diploma in Technical

Engineering was cancelled. Indisputably, thus, on 15th October, 2001 when the RPSC called for applications for filling up the posts of Motor Vehicle Sub Inspector, Part-I and Part-II Technician Engineers Examination (T) conducted by the Institution of Mechanical Engineers (India) was not recognised being equivalent to a Diploma in Mechanical Engineering awarded by the State Board of Technical Education.

6. The counsel for the appellant, however, relied upon the decision of the Supreme Court in the case of Suresh Pal and Others Versus State of Haryana & Others {1987 (2) Supreme Court Cases 445} and submitted that at the time the petitioner joined Part-I and Part-II Technician Engineers Examination (T) conducted by the Institution of Mechanical Engineers (India), the said course was recognised and by the subsequent de-recognition the eligibility to the petitioner cannot be denied.

7. In Suresh Pal & Others, the Supreme Court observed thus:

> “2. The certificate course in Physical Education in Shri Hanuman Vayayam Prasarak Mandal, Amravati, Maharashtra was recognized by the Government of Haryana in 1973 for appointment to the post of

Physical Training Instructor in government schools in Haryana. On the basis of this recognition granted by the State of Haryana to the certificate course of physical education in this Institute in Amravati, the petitioner joined the certificate course and were receiving instruction in this institution until January 9, 1985 when the State of Haryana derecognised the certificate course with the result that the certificates obtained by the petitioners at the end of the certificate course became useless for obtaining service as Physical Training Instructors in Haryana. The petitioners, therefore, filed a writ petition in the High Court of Punjab and Haryana for a writ directing the State of Haryana to recognise the certificates obtained by them, because they had joined the course on the basis of the recognition given by the State of Haryana and the recognition was in force at the time when they joined the course. The writ petition was however rejected summarily by the High Court and hence the present appeal by special leave.

3. We are of the view that since at the time when the petitioners joined the course, it was recognised by the Government of Haryana and it was on the basis of this recognition that the petitioners joined the course, it would be unjust to tell the petitioners now that though at the time of their joining the course it was recognized, yet they cannot be given the benefit of such recognition and the certificates obtained by them would be futile, because during the pendency of the course it was derecognized by the State Government on January 9, 1985. We would, therefore, allow the appeal and direct the State Government to recognize the

> certificates obtained by the petitioners and others similarly situate as a result of completing the certificate course in Shri Hanuman Vayayam Prasarak Mandal, Amravati for the purpose of appointment as Physical Training Instructor in government schools in Haryana. Of course, if any person has joined the certificate course after January 9, 1985 he would not be entitled to the benefit of this order and any certificate obtained by him from the said Institute would be of no avail. There will be no order as to costs of the appeal."

8. In the matter of Suresh Pal, there was a specific case set up by the petitioners that on the basis of the recognition granted by the State of Haryana, they joined the certificate course of physical education in Shri Hanuman Vayayam Prasarak Mandal, Amravati. We wanted the counsel for the appellant to show from the averments in the writ petition whether any such case has been set up by him that on the basis of the recognition and the equivalence granted by the State Government to the Part-I and Part-II of Technician Engineers Examination (T) conducted by the Institution of Mechanical Engineers (India), the petitioner joined the said course, the counsel could not show any such case having been set up by the petitioner in the writ petition. We are, thus,

of the view that the decision in the case of Suresh Pal cannot be applied to the present fact situation.

9. The counsel for the petitioner-appellant then relied upon the following part of the Rules:

> ".....Any qualification in either of the above disciplines declared equivalent by the Central Government....."

10. He submitted that the Central Government by its order dated 11th July, 1988 recognised the Part-I and Part-II Technician Engineers Examination (T) conducted by the Institution of Mechanical Engineers (India) and the said recognition was withdrawn only on 10th June, 2002. Thus, according to him, on the relevant date i.e. the date of issuance of advertisement and the cut off date dated 19th November, 2001 mentioned in the said advertisement, the said qualification was recognised by the Central Government and, thus, the petitioner fulfilled the eligibility prescribed in the Rules.

11. The submission of the counsel does not appeal us. We have already noticed the relevant rule providing for the eligibility. Inter-alia, the eligibility prescribed in the Rules is that

a candidate must be a diploma in automobile engineering (3 years' course) or a diploma in mechanical engineering awarded by the State Board of Technical Education (3 years' course) or any qualification in either of the above disciplines declared equivalent by the Central Government or State Government. The State Government having already cancelled the equivalence of the above course with Diploma in Mechanical Engineering on 30th October, 2000, any recognition by the Central Government, if any, in existence at that time shall be of no avail. The Central Government also derecognised that course vide notification dated 10.6.2002. It is, thus, clear that the petitioner does not fulfill the eligibility.

12. The counsel for the appellant invited our attention to the Notification dated 24th November, 2006 issued by the Government of India wherein the following decision was taken:

> "(i) The recognition of the courses run by IME, Mumbai may be restored with effect from 16.10.2006. With this recognition IME will run the courses based on new syllabus approved by All India Council for Technical Education (AICTE). As per the approval, the Technician Engineers Courses Part I & II (Diploma Level) will have 22 papers in place of existing 14

papers and Degree level course of Section A & B of Associate Membership will include 24 papers in place of 11 papers at present. In addition to this, there will be nine elective subjects. After completing theory papers, students will have to undergo at least 3 months mandatory apprenticeship/ practical training/project report at an All India Council for Technical Education approved Polytechnic for Part I & II of Technician Engineers Course for award of Certificate equivalent to Diploma in Mechanical Engineering and the Apprenticeship/Practical training of the same duration in AICTE approved Degree Colleges for award of Certificate equivalent to Bachelors Degree in Mechanical Engineering for Section A & B of Associate Membership Course.

(ii) The students who were registered prior to 10.6.2002 for part I & II of Technician Engineers (Diploma Level) and Section A & B of Associate Membership course (Degree Level) will be allowed to complete the courses with pre-revised syllabus till the next scheduled examination, to be held in December 2006. Their Degree/Diploma will be recognized for employment in Central Government. Those who do not complete their courses by that time (December 2006), will have to follow the revised syllabus."

13. What transpires from the aforesaid Notification is that the Central Government has restored the recognition of Part-I and Part-II of Technician Engineers (T) with effect from 16th October, 2006 subject to fulfillment of the conditions mentioned therein inter-alia run

courses based on new syllabus approved by All India Council for Technical Education.

14. The restoration of recognition of Part-I and Part-II of Technician Engineers (T) by the Central Government effective from 16th October, 2006 on the condition that the Institute runs the courses based on new syllabus does not improve upon the case of the petitioner as the State Government has not restored the recognition. Moreover, the restoration by the Central Government is on fulfillment of the conditions mentioned therein. The petitioner had passed the Part-II examination in the year 2001 when the course stood de-recognised and equivalence had already been cancelled by the State Government. So far the State Government has not restored the recognition and the equivalence of Part I & II of Technician Engineers (T) course conducted by the Institution of Mechanical Engineers (India) equivalent to Diploma in Mechanical Engineering. The subsequent notification of the Central Government dated 24th November, 2006, therefore, is of no help to the petitioner

14. In the circumstances, the dismissal of the writ petition by the Single Judge cannot be

faulted.

15. Special appeal is dismissed in limine.